

1 (The document referred to was
2 marked for identification as
3 Rainbow Exhibit No. 6.)

4 MR. EISEN: And, finally, Rainbow Exhibit 7 is a
5 29-page document.

6 MS. POLIVY: Twenty-one pages.

7 MR. EISEN: How many pages it?

8 MS. POLIVY: Twenty-one.

9 MR. EISEN: Twenty-one page document consisting of
10 correspondence that we discussed previously that was
11 uncovered recently by Rainbow Broadcasting Company,
12 consisting of a number of letters from Joseph Rey and also
13 some letters from counsel for Rainbow Broadcasting Company.
14 I ask that that be marked for identification as Rainbow
15 Exhibit 7.

16 JUDGE CHACHKIN: The document described is marked
17 for identification as Rainbow Exhibit 7.

18 (The document referred to was
19 marked for identification as
20 Rainbow Exhibit No. 7.)

21 MR. EISEN: And when appropriate, Your Honor, I
22 would offer the exhibits after testimony is adduced.

23 MR. COLE: Your Honor, if we might, it might
24 expedite the process if we were -- because I know I have
25 some threshold objections to some of the materials that are

1 included. And rather than make a witness sit on the stand
2 we might want to have kind of a quasi-admissions session
3 right now to review --

4 JUDGE CHACHKIN: Well, the witnesses that we are
5 going to have testify, Ms. Polivy did not submit a document.

6 MR. COLE: That's correct.

7 JUDGE CHACHKIN: So we will proceed with her
8 first.

9 MR. COLE: Certainly.

10 JUDGE CHACHKIN: Have you supplied to the reporter
11 a copy of the exhibits?

12 MR. EISEN: I have, Your Honor.

13 JUDGE CHACHKIN: The original copy.

14 MR. EISEN: Right.

15 JUDGE CHACHKIN: All right.

16 MR. EISEN: With that, Your Honor, with your
17 permission I would call Ms. Polivy to the witness stand.

18 JUDGE CHACHKIN: Has there been any agreement as
19 to who is going to lead off cross-examination.

20 MR. COLE: We haven't had a formal agreement, but
21 I would be happy to take the lead, Your Honor.

22 MR. SILBERMAN: Mr. Cole will lead off.

23 JUDGE CHACHKIN: Fine.

24 Raise your right hand.

25

1 Whereupon,

2 MARGOT POLIVY

3 having been first duly sworn, was called as a
4 witness herein and was examined and testified as follows:

5 JUDGE CHACHKIN: Please be seated.

6 DIRECT EXAMINATION

7 BY MR. EISEN:

8 Q Good morning.

9 For the record would you state your name and
10 address, please?

11 A Margot Polivy, 1532 16th Street, Northwest,
12 Washington, D.C. 20036.

13 Q Ms. Polivy, how are you presently employed?

14 A I am a partner in the law firm of Renouf & Polivy.

15 Q And can you tell me how long you have been a
16 partner at Renouf & Polivy?

17 A Twenty-four years.

18 Q During that period of time could you describe what
19 your practice consisted of?

20 A It consisted of various federal court and
21 appellate litigation, and throughout the period it's been
22 substantially the component has been communications
23 broadcasting.

24 Q In that regard, have you practiced before the
25 Federal Communications Commission?

1 A Yes, I have.

2 Q Did you ever work as an employee of the Federal
3 Communications Commission?

4 A Yes, I did.

5 Q When was that?

6 A From 1964 to 1970, I believe.

7 Q Can you recall how you were employed with the
8 Commission?

9 A I was first employed as an attorney advisor of the
10 Review Board, and then as a trial attorney at the Hearing
11 Division of what was then the Broadcast Bureau, and then as,
12 I'm not sure what it was, the General Counsel's office in
13 the Office of Administrative Law and Treaties.

14 Q Ms. Polivy, are you familiar with an entity called
15 Rainbow Broadcasting Company?

16 A Yes, I am.

17 Q Have you had any relationship with Rainbow
18 Broadcasting Company?

19 A They were a client of the firm commencing in 1987
20 until the application for assignment of license was made and
21 the permit, the Channel 65 was transferred to Rainbow
22 Broadcasting, Limited.

23 Q Do you have a copy before you of the Joint Hearing
24 Exhibits?

25 A Yes, I do.

1 Q Would you please turn to Joint Hearing Exhibit No.
2 2? And can you briefly describe what that document is?

3 A That is a request for extension time to construct
4 filed on behalf of Rainbow Broadcasting Company on January
5 25, 1991. It has been referred to in this proceeding as the
6 fifth extension.

7 Q Rainbow Broadcasting Company had filed four
8 requests for extensions of time previously?

9 A Yes. During the period that Rainbow Broadcasting
10 Company was both in limbo because of court review and
11 because the Commission was reviewing its minority ownership
12 policy, they had been required to file extensions of time as
13 a pro forma matter, and there had been four previous ones.

14 Q With regard to what you just described as the
15 fifth extension, Joint Exhibit No. 2, did there come a time
16 when you became aware that that particular application has
17 been opposed?

18 A Yes.

19 Q Can you tell -- I'm sorry.

20 A I'm sorry.

21 I can't tell you the date but it was after it was
22 granted.

23 Q Well, how did you learn of that?

24 A I received a copy of the pleading titled "Informal
25 Objection" from -- filed on behalf of Press Broadcasting.

1 Q Did you review the objection when you received it?

2 A Yes.

3 Q Did you discuss the objection with any principal
4 at Rainbow Broadcasting Company?

5 A I have no specific recollection, but I am certain
6 that I discussed it with Joseph Rey and sent him a copy.

7 Q Did you conclude in your mind any characterization
8 about the opposition?

9 Was it a formal opposition, informal opposition?

10 A No, it was an informal opposition.

11 Q Can you explain why it was an informal opposition?

12 A Well, first of all, it was titled "Informal
13 Objection." Secondly, an informal objection would be the
14 only kind of objection that would lie to a request for
15 extension of time.

16 Commission rules specify what kind of applications
17 you could file a petition to deny against. They are largely
18 applications -- they are applications that require the
19 filing of a local public notice up front of the application,
20 a file number, and they are specified. They got basic
21 authorization as opposed to what I would term a supplemental
22 authorization. So petitions to deny could not have been
23 filed against a request for extension of time under the
24 Commission's rules.

25 Q Did there come a time that you became aware that

1 Press Broadcasting Company has filed a petition for
2 reconsideration regarding Joint Exhibit 2?

3 A Yes, there did.

4 Q And how did you learn that that had been filed?

5 A I received a copy of the pleadings so titled.

6 Q Did you understand at that time why Press filed a
7 petition for reconsideration?

8 A Yes, because they were -- they had filed their
9 informal objection after the grant of the extension
10 application, so they were asking for reconsideration of
11 their information objection subsequent to the grant of
12 Rainbow extension.

13 Q Did you have an opportunity review the petition
14 for reconsideration?

15 A I did.

16 Q Do you have a recollection of discussing the
17 petition for reconsideration with any Rainbow Broadcasting
18 Company principal?

19 A I have no specific recollection, but I am sure
20 that I discussed it with Joseph Rey, and sent him a copy of
21 the pleading.

22 Q As counsel for Rainbow Broadcasting Company, did
23 you respond to the petition for reconsideration?

24 A I did. I filed an opposition.

25 JUDGE CHACHKIN: I think it would be useful at

1 this point to have the dates of these documents into the
2 record. I assume you have no objections to it.

3 MS. POLIVY: No.

4 JUDGE CHACHKIN: Do we have the date of the
5 informal objection?

6 MR. EISEN: February 15, 1991. I am assuming that
7 Mr. Cole and Mr. Silberman will jump in if I make any error
8 here.

9 JUDGE CHACHKIN: The date of the information
10 objection is --

11 MR. COLE: Yes, Your Honor, the date of the
12 informal objection is February 15.

13 JUDGE CHACHKIN: And what was the date of the
14 petition for reconsideration?

15 MR. EISEN: I believe it was February 25.

16 MR. COLE: Yes, my --

17 MR. SILBERMAN: February 25, 1991.

18 MR. COLE: That's correct, Your Honor.

19 JUDGE CHACHKIN: All right.

20 MR. EISEN: And just to close that loop, I believe
21 the opposition was filed on March 12, 1991.

22 JUDGE CHACHKIN: And do the parties disagree with
23 that?

24 MR. SILBERMAN: Just a moment, Your Honor.

25 MR. COLE: That's correct, Your Honor.

1 MR. SILBERMAN: Yes.

2 JUDGE CHACHKIN: All right, I think that's fine.

3 Go ahead.

4 BY MR. EISEN:

5 Q Now, you just discussed what you referred to as
6 the fifth RDC, Rainbow Broadcasting Company extension of
7 time and the pleadings that that extension generated.

8 Did there also come a time when Rainbow
9 Broadcasting Company filed a further extension request?

10 A There did on June 25, 1991.

11 Q And if you turn to Exhibit No. 3 in the Joint
12 Exhibits, is that the request for further extension?

13 A Yes, it is.

14 Q Between the filing of Joint Exhibit No. 3 on June
15 25, 1991, and the earlier Press petition for
16 reconsideration, did the Commission have an opportunity, to
17 your knowledge, to act on the pleadings?

18 A They had an opportunity. They didn't avail
19 themselves of it. They denied it.

20 Q And did there come a time that you learned that
21 the June 25, 1991 extension request had been opposed?

22 A The June 25 extension, of course, was opposed by
23 an informal objection by Press Broadcasting.

24 Q And how did you learn of that decision?

25 A I received a copy of it in the mail.

1 Q And, again, as I asked you with regard to the
2 fifth extension request, did you discuss that opposition
3 with a Rainbow Broadcasting Company principal?

4 A I'm sure I discussed it with Joseph Rey, and
5 provided him a copy.

6 Q Would you please turn to Joint Exhibit No. 4,
7 that's the October 8, 1991 letter that was signed by Douglas
8 A. Sandifer, the Managing Director?

9 Do you recall receiving a copy of that letter?

10 A Yes, I did.

11 Q Can you tell me the circumstances under which you
12 received it?

13 A I receive it in the mail from the FCC.

14 Q Do you recall when you received it?

15 A No, I don't. I am sure that it was close to
16 October of 1991, but I don't know what date.

17 Q Do you recall sending a copy of this letter to any
18 Rainbow Broadcasting Company principal?

19 A No, I do not.

20 Q Do you recall discussing the contents of the
21 letter with any RBC principal?

22 A No, I do not.

23 Q Why did you not discuss this particular letter
24 with any RBC principal?

25 A Well, it didn't apply to Rainbow and it's not the

1 sort of letter that I would send to a client. It is of no
2 specific interest to the client. It didn't affect Rainbow.

3 Q But you did review the letter; is that correct?

4 A I read the letter, yes.

5 Q At the time that you received the letter and
6 reviewed it, can you recall what you understood the letter
7 to mean?

8 A That the Managing Director was saying as to Mr.
9 Daniels, who is a third party, the proceeding was
10 restricted. That did not by -- the Commission's rules say
11 that as to the applicant the proceeding is not restricted,
12 but as to third parties, such as Mr. Daniels or Press or
13 anyone else, the proceeding is restricted. So the ex parte
14 rules applied.

15 Q When you say that it's not restricted to the
16 applicant can you be a little bit more specific?

17 A The rule which is not cited in Mr. Sandifer's
18 letter is the 1294(a). There is a note to that rule that
19 reads, "In proceedings exacted by Section -- subsection
20 1.1204(a)(i), or (a)(ii), oral ex parte communications are
21 permissible but only between the Commission and the formal
22 party involved or its representative," which would be
23 Rainbow. "Any informal objections, whether they are oral or
24 written," which would be Press, for example, or Mr.
25 Daniels, "are subject to ex parte procedures set forth in

1 1.1208, barring oral ex parte contacts, et cetera, where
2 confidentiality is necessary," et cetera.

3 Consequently, on the basis of that note to the ex
4 parte rules it is my opinion that the restriction that the
5 Managing Director was talking about with respect to Mr.
6 Daniels was not directly relevant to Rainbow Broadcasting
7 Company as the formal party.

8 Q And the note that you just cited is the note that
9 appears at the bottom of Rainbow Broadcasting Company
10 Exhibit No. 1 for identification?

11 A On page 1, toward the bottom of the page, yes.

12 Q Did there come a time, Ms. Polivy, when you
13 learned that the Commission had released a decision with
14 regard to the Rainbow Broadcasting Company application?

15 A You mean with respect to the extension request?

16 Q Yes, I do.

17 A Yes, they did.

18 Q How did you first learn that a decision had been
19 reached?

20 A It was read to me on the telephone by Paul Gordon,
21 who is a staff member in the Mass Media Bureau.

22 Q I would ask that you turn in the Joint
23 Stipulations to Joint Stipulation No. 8.

24 Is that the decision to which you referred?

25 A I'm sorry, I --

1 Q That is the June 18, 1992 letter signed by Barbara
2 Kreisman, Chief of the Video Services Division?

3 A Yes, but my numbering is different.

4 MR. SILBERMAN: Excuse me. Joint Exhibit No. 8 is
5 the letter from Barbara Kreisman.

6 THE WITNESS: Oh, I'm sorry.

7 Yes.

8 MR. SILBERMAN: And Stipulation 8 has nothing to
9 do with Barbara Kreisman's letter, to my understanding.

10 MR. EISEN: Right, but we're talking about Joint
11 Exhibit 8.

12 MR. SILBERMAN: Okay.

13 THE WITNESS: I'm sorry. I misunderstood.

14 MR. SILBERMAN: Okay.

15 THE WITNESS: Yes, Joint Exhibit 8 is the letter I
16 received.

17 BY MR. EISEN:

18 Q And this discussion with Mr. Gordon that you just
19 referenced, was that before you received a copy of the
20 letter?

21 A It was after the date of the letter, before I
22 received a copy of the letter. I did not receive a copy of
23 the letter until sometime after the 25th of June. I spoke
24 to Mr. Gordon, I believe, on the 24th of June.

25 Q Did you and Mr. Gordon have a discussion at that

1 time?

2 A I had had a discussion with Mr. Gordon on the 17th
3 of June, and he told me that it would be coming out the
4 week, by the 20th it would be out. When I didn't receive
5 anything I called him on the 24th to find out when it was
6 coming out, and he said, "Oh, it came out on the 18th of
7 June."

8 And I said, "I had not received a copy of it.
9 What was the outcome?"

10 And he told me, and I asked him if he would please
11 read it to me, and he did. And then I received it
12 subsequently.

13 Q After you understood what the Commission had done
14 in the June 18, 1993 letter, did you discuss the decision
15 with any Rainbow Broadcasting Company principal?

16 A I did.

17 Q Do you recall who that was?

18 A Joseph Rey.

19 Q Can you recall the substance of your conversation
20 with him?

21 A The substance was telling him what the Commission
22 had done, my opinion as to the lack of factual or legal
23 merit in what they had done, and discussion of what the
24 process would be for getting a reversal.

25 Q At the time of this discussion did Mr. Rey provide

1 you with any instructions?

2 A We discussed filing a petition for
3 reconsideration, and I don't know that he gave me specific
4 instructions, but he certainly indicated that we should go
5 ahead with that.

6 Q Did you have an opportunity to discuss with any
7 other FCC staff person the June 18, 1993 letter?

8 A Other than Paul Gordon?

9 Q Yes.

10 A When I spoke to Paul Gordon, I asked him who
11 signed the letter, and he said Barbara Kreisman. And I
12 asked him if Clay Pendarvis had seen it, I believe. And he
13 said yes. I said would he meet with me. Paul Gordon said,
14 well, he didn't know. I would have to ask him.

15 I did call Clay and asked him to set up a meeting
16 to meet with us. And I did call Roy Stewart and asked him
17 if he would set up a meeting and meet with us.

18 As it turned out, Roy Stewart suggested that -- I
19 had told him that I had asked Clay for a meeting. He said,
20 "Well, why don't we do it all in one place and do it in my
21 office."

22 And there was one meeting.

23 Q When you spoke to Mr. Pendarvis, at anytime in
24 that telephone conversation did you discuss whether or not
25 there had been objections filed against the extension

1 request?

2 A Yes, there may have been more than one telephone
3 conversation setting up the meeting in terms of time and
4 whatnot. But at some point prior to the meeting he asked me
5 if there had been any objections, and I told him that Press
6 had filed an informal objection to the fifth, they filed a
7 reconsideration, they filed an information objection to the
8 sixth. They did formally object to everything else that we
9 had filed.

10 And he said, "Fine." And I said, "Fine."

11 MR. COLE: Objection. Could we have a
12 clarification as to who the "he" was?

13 THE WITNESS: Mr. Pendarvis.

14 JUDGE CHACHKIN: Mr. Pendarvis. Thank you.

15 BY MR. EISEN:

16 Q Well, I ask you the same question with regard to
17 Mr. Stewart. Do you recall what you discussed in the
18 conversation with him?

19 And by the way, this is a telephone conversation
20 with Mr. Stewart?

21 A These were telephone conversations both with Mr.
22 Pendarvis and Mr. Stewart.

23 I do not have a specific recollection of my
24 conversation with Mr. Stewart other than his suggestion that
25 we meet in his office as opposed to having two meetings. He

1 may have asked whether informal objections were filed or
2 not, but I cannot tell you that I have a specific
3 recollection of that.

4 Q Are you familiar with Antoinette Cook Bush?

5 A Yes, I am.

6 Q Prior to July 1, 1993, can you describe your
7 relationship with Ms. Cook?

8 A She is a friend of longstanding. She is a former
9 client, a colleague. I know her fairly well.

10 Q In June of 1993, did you know how Ms. Bush was
11 employed?

12 A She was counsel to the Senate Commerce Committee,
13 United States Senate Commerce Committee.

14 Q Do you know how long she was employed in that
15 capacity?

16 A I don't know how long. I would be guessing. But
17 she had been there three, four, five years.

18 Q Do you know whether or not Ms. Bush had ever had
19 any connection with Rainbow Broadcasting Company?

20 A Prior to her going to work for the Senate, Ms.
21 Bush was an associate in the firm of Wiley & Rein. In that
22 capacity she had been one of the associate junior people who
23 represented Rainbow in the original comparative
24 authorization proceeding.

25 Q Do you have any knowledge about her relationship

1 or lack of relationship after she represented Rainbow
2 Broadcasting Company?

3 A With Rainbow Broadcasting Company?

4 Q Yes.

5 A I don't know that she had any.

6 Q Okay. After you had learned about the
7 Commission's decision --

8 A Excuse me. I should amend that.

9 When Rainbow Broadcasting Company was in the
10 Supreme Court under the minority preference, and Ms. Bush
11 was in the United States Senate, she was involved in the
12 Senate filing an amicus brief in the Supreme Court in the
13 Metro case.

14 Q And was that --

15 A She didn't file the brief, but I know that she was
16 involved in the discussion.

17 Q To be clear, was that in her capacity as a senior
18 counsel to the Senate Committee?

19 A Yeah, the brief was actually filed by the counsel
20 for the Senate, who I think at that time was Davidson, Tom
21 Davidson, I think. But I am sure that she was involved with
22 it, in the discussions of it.

23 Q Again, is it your testimony that after you
24 received the decision that you contacted Ms. Bush?

25 A Yes, it is.

1 Q Do you recall whether that contact was in person
2 or by telephone?

3 A By telephone. She was in New York.

4 Q What did you and she discuss?

5 A I told her what had -- what the Commission and
6 what the staff had done, and how remarkable it was, and the
7 fact that they had held onto Rainbow Broadcasting Company's
8 application for two years, and then defaulted them for not
9 constructing during the time that they were holding onto the
10 construction permit; and that we had never had two years to
11 construct. And I asked her if she would call the FCC and
12 find out what the heck was going on over there.

13 Q What was your purpose in contacting Ms. Bush at
14 that time?

15 A I wanted her to find out what was going on at the
16 FCC, how they could come out with such an appalling
17 decision, and that I thought that she would get a fast
18 answer.

19 Q But why Ms. Bush?

20 A As opposed to anyone else?

21 Q Yes.

22 A Well, number one, because that was -- the job of
23 the Senate Committee is partially oversight of the FCC. She
24 was the appropriate person to ask.

25 Q And it's your recollection that you asked Ms. Bush

1 to make this contact?

2 A Yes, I did.

3 Q Did you and Ms. Bush discuss what person at the
4 FCC she should contact?

5 A No.

6 Q Did Ms. Bush indicate to you in any way what
7 person at the FCC she would contact?

8 A No, she didn't.

9 Q Can you recall approximately when you had this
10 discussion with Ms. Bush?

11 A No, other than shortly after I learned of the
12 letter, but I don't know. I can't give you the date.

13 Q After she agreed to make this contact, did she
14 have an occasion to contact you with a report of any kind?

15 A I don't have a specific recollection, but I'm sure
16 she called me back and said that she had spoken to Roy or
17 that he didn't know anything about it, but they were looking
18 into it. And she had spoken to Clay and said something
19 about filing a petition for reconsideration. But we had no
20 substantive conversation other than that.

21 Q Did you have, prior to July 1, 1993, any further
22 discussions with her about the Rainbow Broadcasting Company
23 applications?

24 A I might have called her and told her we were
25 meeting, but I don't have a specific recollection. But we

1 had no substantive -- no conversation of substance of
2 anything.

3 Q And did you in fact meet with Mr. Stewart
4 concerning the June 18, 1993 decision?

5 A Yes, I did.

6 Q And when did that meeting occur, if you recall?

7 A On July 1, 1993, in Mr. Stewart's office.

8 Q Can you recall who attended the meeting?

9 A Roy Stewart; Robert Ratcliffe; Barbara Kreisman;
10 Clay Pendarvis; Paul Gordon; Joseph Rey; and I.

11 Q What was the reason for Mr. Rey's attendance?

12 A Well, Mr. Rey is the principal of Rainbow
13 Broadcasting Company and is conversant with exactly what
14 had been done by Rainbow prior to that time; how much money
15 they had already expended in the pursuit and the
16 construction on the permit; what the situation was. He was
17 the most interested person.

18 Q Directly prior to that July 1, 1993 meeting, did
19 you do anything to reinforce your opinion that the meeting
20 would not be in violation of the Commission's ex parte
21 rules?

22 A Yes. After I spoke to Clay Pendarvis, he asked me
23 whether there had been any objections filed, and we had had
24 our very brief discussion about what had been filed. I went
25 back and checked the FCC's rules to make sure that what I

1 had said was correct, that it was perfectly appropriate for
2 us to meet.

3 Q How long did the meeting in Mr. Stewart's office
4 take, if you recall?

5 A I would say somewhere between 15 and 20 minutes.

6 Q Did you have any opportunity speak at the meeting?

7 A Yes, I did.

8 Q Can you recall what you said at the meeting?

9 A I went through the background very quickly of the
10 Rainbow application, and chronology of events that had
11 transpired prior to this. I pointed out that Rainbow had
12 not had an opportunity after the Supreme Court to have two
13 years to construct, which we believed we were entitled to;
14 that we had shown every indication of wanting to go forward,
15 of going forward to the extent we could. We had expended
16 over a half a million dollars on tower rent alone. And that
17 we did not feel that we had been given a fair shake on the
18 steps.

19 Q Can you recall whether in response to the points
20 that you raised any of the staff persons that were present
21 stated anything?

22 A I do recall one thing, and that is that they were
23 surprised that there had been a half a million dollars spent
24 on tower rent, and they said we should have put that in our
25 pleadings. And I pointed out to them where we had put it in

1 our pleadings. And somebody said, well, that was in a
2 footnote.

3 Other than that the only discussion was a question
4 as to who was objecting, and we said "Press" toward the end
5 of the meeting. And Roy Stewart said that we should file a
6 petition for reconsideration; that they would act on it; and
7 that we should make sure to serve Press. And he asked if
8 that was Bob McAllen's company. And we said "Yes."

9 Q So the record is clear, Mr. Stewart was Chief of
10 the Mass Media Bureau, correct?

11 A Yes, he was.

12 Q Did anyone at the meeting recommend to you, to
13 Rainbow Broadcasting Company, a course of action?

14 A You mean in addition to filing a petition for
15 reconsideration?

16 Q No. Was that --

17 A They did that. That was the action that they
18 recommended.

19 Oh, we did point out also that the time is
20 crucial, that they had ben hanging onto these things for
21 almost two years; and that we had an assignment application
22 pending at the same time; and that, you know, we really had
23 to get things -- we couldn't stand and wait around another
24 two years for them to consider the petition for
25 reconsideration.

1 Q With regard to the comment or recommendation to
2 file for a petition for reconsideration, did anyone at the
3 meeting give you any assurances that the petition for
4 reconsideration should Rainbow Broadcasting Company file one
5 would have been favorably reviewed?

6 A No. The only thing that was said is that Roy
7 Stewart said that if we filed a petition for reconsideration
8 they would act on it.

9 Q What did you do after you left the meeting?

10 A Mr. Rey and I returned to my office, and worked on
11 a petition for reconsideration.

12 Q And was a petition for reconsideration
13 subsequently filed?

14 A Yes, it was. It was filed the following day.

15 Q After the petition for reconsideration was filed,
16 did you have any further contacts with Commission staff
17 persons?

18 A Yes. I called Barbara Kreisman's office and asked
19 her if she had everything that she needed, and when could we
20 expect that there would be some action on this. And she
21 said that she thought that they could have -- it would take
22 a couple of week, that they would act on it quickly.

23 I asked her if she minded if I kept calling her to
24 make sure they stuck to that schedule. And she said she
25 didn't mind. And I waited two weeks and I called every day

1 and made a pest of myself. And I called Mr. Pendarvis also
2 for the same purpose.

3 Q And was there in fact a decision released?

4 A The decision was in fact released, I believe, on
5 the 31st of July. It may have been the first of August, but
6 it was released by the end of the month.

7 Q Just turning in your --

8 A The 30th, it was.

9 Q -- book of exhibits to Joint Exhibit No. 9, that's
10 the decision to which you just referred?

11 A That is the reconsideration, yes.

12 Q After the July 1, 1993 meeting did you have an
13 occasion to discuss Rainbow Broadcasting Company's status
14 with Ms. Bush?

15 A I'm sure that I called her and told her the
16 reconsideration had been granted.

17 Q And at anytime in any discussion with the staff
18 prior to the decision on reconsideration did anyone state to
19 you that they could not discuss the merits of the proceeding
20 because of the ex parte rules?

21 A No.

22 MR. COLE: Excuse me. Could I have that question
23 read back?

24 JUDGE CHACHKIN: Yes. Would the reporter read
25 back the question?